

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 3 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**DEFENDANTS' MOTION TO EXCLUDE
CERTAIN GENERAL OPINIONS OF JERRY BLAIVAS, M.D.**

Defendants Ethicon, Inc., Ethicon LLC, and Johnson & Johnson (hereinafter “Defendants”) move to exclude certain general opinions of one of Plaintiffs’ experts, Jerry Blaivas, M.D., that are improper, irrelevant, unreliable, and/or are beyond his expertise as a urologist. Specifically, Defendants request that the Court preclude Dr. Blaivas from: (1) Testifying that the Defendants’ devices are not safe in the treatment of stress urinary incontinence, because such opinions are unreliable and based on a standard different from that which he employs in his medical practice; (2) Testifying that other surgical approaches are safer alternatives to the devices at issue, because such procedures are not alternative designs and are irrelevant to a design-defect claim, and because such opinions are unreliable; (3) Offering design opinions, including opinions regarding laser-cut mesh versus mechanically-cut mesh, because he is not qualified to do so, and his opinions are unreliable and not offered within a reasonable degree of medical certainty; (4) Offering biomaterials opinions, including testimony about alleged mesh degradation, shrinkage, and other deformations opinions, because he is not qualified to do so and such opinions are unreliable, irrelevant, and/or otherwise improper; (5)

Testifying about inflammatory alleged conditions, because such opinions are irrelevant, highly inflammatory, and prejudicial; (6) Offering warning opinions, because he is not qualified to do so and such opinions are irrelevant and inadmissible; (7) Testifying about testing, because he is not qualified to do so and such opinions are irrelevant, speculative, and unreliable; (8) Offering opinions suggesting bias, industry manipulation, and/or collusion, because such opinions are completely unsupported and unreliable; (9) Testifying about Prolene Soft because Dr. Blaivas has not prepared a general report for Prolene Soft; and (10) Offering opinions beyond Dr. Blaivas' expertise and/or that are otherwise improper, because he is not qualified to do so and such opinions are speculative, unreliable, and/or is merely based on a narrative summary of Defendants' documents.

As grounds for this motion, Defendants submit that Dr. Blaivas cannot provide reliable, trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). In support of this motion, Defendants incorporate by reference the exhibits filed in support of Defendants' Wave 1 motion to exclude Dr. Blaivas. *See* Doc. 2038.

WHEREFORE, FOR THESE REASONS and as more fully set forth in Defendants' supporting memorandum of law, Defendants respectfully request that this Court enter an order granting Defendants' Motion to Exclude the Testimony of Dr. Jerry Blaivas, M.D.

Respectfully Submitted,

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THIS DOCUMENT RELATES TO ETHICON WAVE 1 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on this day I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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